

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ALEXANDER R. GIFFORD,
ROY GIFFORD,
SUELLEN GIFFORD,

Plaintiffs,

v.

Case No. 20-CV-13187
Honorable Thomas L. Ludington

UNITED STATES OF AMERICA,
CHRISTOPHER A. WRAY,

Defendants.

**ORDER DENYING PLAINTIFFS' MOTION FOR LEAVE TO PROCEED *IN FORMA*
PAUPERIS ON APPEAL AND MOTION FOR AN APPEAL**

On November 22, 2020, Plaintiffs Alexander R. Gifford (“Mr. Gifford”), Roy Gifford, and Suellen Gifford filed a complaint against Defendants, the United States of America, and Christopher A. Wray, Director of the Federal Bureau of Investigation, along with an application to proceed *in forma pauperis*. ECF Nos. 1, 2. On December 17, 2020, the application to proceed *in forma pauperis* was granted, the Complaint was dismissed as frivolous, Plaintiffs were denied a certificate of appealability, and Mr. Gifford was enjoined from filing any new action with the Court without first obtaining leave to do so. ECF No. 5. On December 22, 2020, a day before judgment was entered, Plaintiffs filed a notice of appeal, application to proceed *in forma pauperis*, and motion for an “appeal/re-evaluation of facts.” ECF Nos. 6, 7, 8. Given the sequence of filings, Plaintiffs’ application is construed as a motion to proceed *in forma pauperis* on appeal. For the reasons stated below, Plaintiffs’ Motion for Leave to Proceed *in Forma Pauperis* on Appeal and Motion for an Appeal¹ will be denied.

¹ The motion is untitled, so its name is derived from the relief sought.

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). “Courts are required to give plain meaning to the language of the statute. Thus, if the district court concludes that the appeal is not taken in good faith, the individual must pay the entire filing fee and may not proceed on appeal as a pauper.” *In re Prison Litig. Reform Act*, 105 F.3d 1131, 1136–37 (6th Cir. 1997) (internal citation omitted). This Court declined to issue a certificate of appealability because Plaintiffs’ “action is frivolous, and an appeal could not be taken in good faith.” ECF No. 5 at PageID.16. Therefore, Plaintiffs’ Motion for Leave to Proceed *in Forma Pauperis* on Appeal will be denied.

Plaintiffs’ Motion, which purports to seek an “appeal” or “re-evaluation of facts,” must also be denied. ECF No. 7 at PageID.18. Under the heading “Statement of Issues Presented,” the Motion states,

Procedural issues persist/exist. Two of the Plaintiffs did not qualify for financing?? Also Judge ruled on incorrect complaint and statement of claim. An amended complaint and statement of claim, which was filed on 12/14/2020, mysteriously has the wrong case number attached and was delayed. These reasons alone warrant further investigation.

ECF No. 7 at PageID.20 (sic throughout). It is unclear what Plaintiffs mean by “amended complaint and statement of claim.” *Id.* To the extent that Plaintiffs seek to appeal this Court’s order of dismissal, their remedy lies in an appeal to the Sixth Circuit Court of Appeals, which they have already noticed. ECF No. 6. If, instead, Plaintiffs seek reconsideration of this Court’s order, they have not stated an adequate basis for doing so. Local Rule 7.1 permits parties to seek reconsideration of an order where they can show a “palpable defect” that, if corrected, would “result in a different disposition of the case.” E.D. Mich. L.R. 7.1(h)(3). Plaintiffs have identified no such defect in this Court’s order. Accordingly, the motion will be denied.

Accordingly, it is **ORDERED** that Plaintiffs' Motion to Proceed *in Forma Pauperis* on Appeal, ECF No. 8, is **DENIED**.

It is further **ORDERED** that Plaintiffs' Motion for an Appeal, ECF No. 7, is **DENIED**.

Dated: January 7, 2021

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE
The undersigned certifies that a copy of the foregoing order was served upon:
Alexander R. Gifford 9873 County Road 489 Atlanta, MI 49709;
Roy Gifford 20074 Davison Dr Paris, MI 49338;
And Suellen Gifford 20074 Davison Dr Paris, MI 49338
by first class U.S. mail on January 7, 2021.
<u>s/Kelly Winslow</u> KELLY WINSLOW, Case Manager